

§ 54B-12. Criteria to be met before the Commissioner of Banks may recommend approval of an application.

(a) The Commissioner of Banks may recommend approval of an application to form a mutual association only when all of the following criteria are met:

- (1) The proposed association has an operational expense fund, from which to pay organizational and incorporation expenses, in an amount determined by the Commissioner of Banks to be sufficient for the safe and proper operation of the association, but in no event less than seventy-five thousand dollars (\$75,000). The moneys remaining in such expense fund shall be held by the association for at least one year from its date of licensing. No portion of such fund shall be released to an incorporator or director who contributed to it, nor to any other contributor, nor to any other person and no dividends shall be accrued or paid on such funds without the prior approval of the Commissioner of Banks.
- (2) The proposed association has pledges for withdrawable accounts in an amount determined by the Commissioner of Banks to be sufficient for the safe and proper operation of the association, but in no event less than four million dollars (\$4,000,000).
- (3) All entrance fees for withdrawable accounts of the proposed association have been made with legal tender of the United States.
- (4) All initial pledges for withdrawable accounts of the proposed association are made by residents of North Carolina.
- (5) The name of the proposed association will not mislead the public and is not the same as an existing association or so similar to the name of an existing association as to mislead the public.
- (6) The character, general fitness and responsibility of the incorporators and the initial board of directors of the proposed association who shall be residents of North Carolina are such as to command the confidence of the community in which the proposed association intends to locate.
- (7) There is a reasonable demand and necessity in the community which will be served by the establishment of the proposed association.
- (8) The public convenience and advantage will be served by the establishment of the proposed association.
- (9) The proposed association will have a reasonable probability of sustaining profitable and beneficial operations in the community.
- (10) The proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services.

(b) The Commissioner of Banks may recommend approval of an application to form a stock association only when all of the following criteria are met:

- (1) The proposed association has prepared a plan to solicit subscriptions for capital stock in an amount determined by the Commissioner of Banks to be sufficient for the safe and proper operation of the association, but in no event less than three million dollars (\$3,000,000).
- (2) Repealed by Session Laws 1989, c. 76, s. 3.
- (3) All subscriptions for capital stock of the proposed association have been purchased with legal tender of the United States.
- (4) to (7) Repealed by Session Laws 1983, c. 144, s. 5.

- (8) The name of the proposed association will not mislead the public and is not the same as an existing association or so similar to the name of an existing association as to mislead the public; and contains the wording "corporation," "incorporated," "limited," or "company," an abbreviation of one of such words or other words sufficient to distinguish stock associations from mutual associations.
- (9) The character, general fitness, and trustworthiness of the incorporators, initial board of directors, and initial stockholders of the proposed association are such as to command the confidence of the community in which the proposed association intends to locate.
- (10) There is a reasonable demand and necessity in the community which will be served by the establishment of the proposed association.
- (11) The public convenience and advantage will be served by the establishment of the proposed association.
- (12) The proposed association will have a reasonable probability of sustaining profitable and beneficial operations in the community.
- (13) The proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services.

(c) The minimum amount of pledges for withdrawable accounts or subscriptions for capital stock may be adjusted in the discretion of the Commissioner of Banks if he determines that a greater requirement is necessary or that a smaller requirement will provide a sufficient capital base. Such a finding and recommendation to the Commission shall be based upon due consideration of (i) the population of the proposed trade area, (ii) the total deposits of the depository financial institutions operating in the proposed trade area, (iii) the economic conditions of and projections for the proposed trade area, (iv) the business experience and reputation of the proposed management, (v) the business experience and reputation of the proposed incorporators and directors, and (vi) the projected deposit growth, capitalization, and profitability of the proposed association. (1981, c. 282, s. 3; 1983, c. 144, s. 5; 1985, c. 659, s. 3; 1989, c. 76, s. 3; 2001-193, s. 16.)